IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

Neva Ann Young, Plaintiff, v. Equifax Information Services, LLC, Defendant.	))))))))))	Civil Action File No.: **COMPLAINT WITH JURY TRIAL DEMAND**

PRELIMINARY STATEMENT

This action for damages is based on Defendant's false reporting on Plaintiff's credit file and/or consumer reports, failures to follow reasonable procedures to assure maximum possible accuracy of the information concerning Plaintiff, and failures to conduct reasonable reinvestigations with respect to such information.

PARTIES

1. Plaintiff, Neva Ann Young, is a natural person who resides in Paulding County, Georgia.

2. Plaintiff is an individual and is, therefore, a "consumer" as that term is defined by 15 U.S.C. § 1681a(c).

3. Defendant, Equifax Information Services, LLC (hereinafter "Equifax"), is a limited liability corporation formed under the laws of the State of Georgia. Equifax may be served with process via its registered agent, Shawn Baldwin, at 1550 Peachtree Street NE, Suite H46, Atlanta, Georgia 30309-2402.

4. Equifax regularly assembles and/or evaluates consumer credit information for the purpose of furnishing consumer reports to third parties and uses interstate commerce to prepare and/or furnish the reports. Accordingly, Equifax is a "consumer reporting agency" as that term is defined by 15 U.S.C. § 1681a(f).

JURISDICTION AND VENUE

5. This Court has federal question jurisdiction over Plaintiff's Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681, *et seq*., claims, pursuant to 15 U.S.C. § 1681p and 28 U.S.C. § 1331.

6. This Court has personal jurisdiction over Defendant, pursuant to O.C.G.A. § 9-10-91(1), because, *inter alia*, Defendant frequently and routinely conducts business in the State of Georgia, including the conduct complained of herein.

7. Pursuant to 28 U.S.C. § 1391, venue is proper in the Northern District of Georgia because a substantial part of the events or omissions giving rise to the claims

occurred in this district. Pursuant to LR 3.1B(3), NDGa, venue is proper in the Atlanta Division because Defendant maintains an agent for service of process within the Atlanta Division.

Factual Allegations Derived from Plaintiff's Mortgage

8. On or about October 31, 2005, Plaintiff obtained a loan from JPMorgan Chase Bank, N.A., as successor to First Atlantic Mortgage, LLC of Georgia (hereinafter "Chase") for the original principal amount of $87,500.00 (the "Mortgage").

9. The Mortgage is collateralized by residential real property located at 1580 Winndale Road, Dallas, Georgia 30157-5681, as evidenced by the Security Deed recorded at Deed Book 2029, Page 17, in the Superior Court of Paulding County.

10. On or about June 26, 2013, the Mortgage was transferred from Chase to Specialized Loan Servicing, LLC (hereinafter "SLS"), as evidenced by the Assignment recorded at Deed Book 3173, Page 272, in the Superior Court of Paulding County.

Factual Allegations Derived from Plaintiff's Bankruptcy Case

11. On January 14, 2011, Plaintiff filed a Chapter 13 Voluntary Bankruptcy Petition in the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division, Case Number 11-40096 (the "Bankruptcy Case").

12. In Schedule D of her Bankruptcy Petition, Plaintiff listed Chase as having a secured claim for the Mortgage in the amount of $81,979.00.

13. On January 14, 2011, Plaintiff filed her Chapter 13 Plan in accordance with 11 U.S.C. § 1322(b)(5), providing for the cure of any then-deficiency and the direct payment of all future Mortgage payments by Plaintiff to Chase.

14. On March 24, 2011, Plaintiff's Plan was confirmed and became *res judicata* as to Plaintiff and Chase.

15. On June 9, 2016, the Bankruptcy Court issued an Order of Discharge in favor of Plaintiff. The Bankruptcy Court order specifically excluded from discharge, however, any debt provided for under 11 U.S.C. § 1322(b)(5), such as Plaintiff's Mortgage. The applicable language of the Order is set forth below:

Most debts are discharged
Most debts are covered by the discharge, but not all. Generally, a discharge removes the debtors' personal liability for debts provided for by the chapter 13 plan.

In a case involving community property: Special rules protect certain community property owned by the debtor's spouse, even if that spouse did not file a bankruptcy case.

Some debts are not discharged
Examples of debts that are not discharged are:

- debts provided for under 11 U.S.C. § 1322(b)(5) and on which the last payment or other transfer is due after the date on which the final payment under the plan was due;

16. The Mortgage owed to SLS has not been discharged and is not subject to discharge under 11 U.S.C. § 1328(a)(1). See, *In re Duke*, 447 B.R. 365 (Bankr. M.D. Ga. 2011).

17. Accordingly, Plaintiff has continued to make, and SLS has continued to service and accept, Plaintiff's Mortgage payments post-discharge in accordance with the underlying note.

Factual Allegations Derived from Reporting to and by Equifax

18. On or about October 25, 2016, Plaintiff obtained a copy of her consumer report as published by Equifax.

19. That report contained erroneous information as published and reported by Equifax.

20. Specifically, the report shows the Mortgage as having a $0.00 balance and a last payment date of January 2011.

21. The relevant portion of the SLS tradeline appeared in the October 25, 2016, Equifax report as follows:

Specialized Loan Services 8742 Lucent Blvd Ste 300 Highlands Ranch CO 80129-2386 : (720) 241-7200

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Months Revd	Activity Designator	Creditor Classification
100764*	10/31/2005					32		

Items As of Date Reported	Balance Amount	Amount Past Due	Date of Last Paymnt	Actual Paymnt Amount	Scheduled Paymnt Amount	Date of 1st Delinquency	Date of Last Activity	Date Maj. Del. 1st Rptd	Charge Off Amount	Deferred Pay Start Date	Balloon Pay Amount	Balloon Pay Date	Date Closed
01/14/2011	$0	$0	01/2011			01/2011		01/2011					

Status - Included in Wage Earner Plan; Type of Loan - Conventional Re Mortgage; Whose Account - Individual Account; ADDITIONAL INFORMATION - Bankruptcy Chapter 13; Real Estate Mortgage; Bankruptcy Completed;

(Remaining portion of tradeline omitted.)

22. Because the balance of the Mortgage owing to SLS is not $0.00, and because Plaintiff's Mortgage owing to SLS was not discharged in bankruptcy, and because Plaintiff continues to make payments to SLS, the information described above was both false and misleading.

23. Further, the specific reporting described above was in derogation of accepted industry standards for reporting the account as set forth by the CDIA and

Metro 2 and as adopted by Defendant. See e.g., 2015 CDIA Credit Reporting Resource Guide ("2015 Metro 2").

24. In a letter dated August 30, 2017, Plaintiff disputed the inaccurate and misleading information directly to Equifax and advised Equifax that the Mortgage was included in her Bankruptcy Case but was not discharged and is reporting incorrectly as to the current status, payment history, and balance. The relevant portion of Plaintiff's dispute is reproduced below:

August 30, 2017

Equifax Information Services, LLC
P.O. Box 105314
Atlanta, Georgia 30348

SSN: 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
My Date of Birth: August 12, 1957
Credit Report No.: 6299057223

To Whom it May Concern:

On October 25, 2016, your company provided me with my consumer credit report. I have identified an item which is being reported incorrectly and that is harming my credit rating. Please review the following incorrect item and make the appropriate corrections and then send me a copy of the complete copy of my updated credit file.

Specialized Loan Services, 8742 Lucent Boulevard, Suite 300, Highlands Ranch, Colorado 80129-2386, account number 100764XXXX, is reporting incorrectly as to the current status, payment history and balance. The account was included in my bankruptcy case filed on January 14, 2011, case number 11-40096. But the account was not discharged with the case on June 9, 2016. The balance is not $0 and I continue to make payments per the terms of the account. It is a long-term debt, as the account indicates, and falls under § 1322(b)(5) of the bankruptcy code. I have included my confirmed plan listing this account in the mortgages section and a copy of the Bankruptcy Court Discharge Order, highlighted, so that so that you can verify its exception from Discharge. Please forward these documents to the furnisher, confirm my balance and payments and correct this report.

Thank you and I look forward to your immediate reply.

25. In support of Plaintiff's dispute and to assist Defendant's investigations, Plaintiff included with her dispute the following documents: a copy

of Plaintiff's Confirmed Chapter 13 Plan, showing the Mortgage as long-term debt and thus exempt from discharge under 11 U.S.C. § 1328(a)(1); a copy of the discharge order exempting debts such as that held by SLS from discharge; and a recent payoff statement provided by SLS showing the continuation of Plaintiff's obligation.

26. Pursuant to 15 U.S.C. § 1681i, Equifax had a duty to notify SLS of Plaintiff's dispute within five business days of receiving the dispute, to forward the attached documents for SLS's review, to conduct a reasonable reinvestigation of the disputed information, and to correct the tradeline or delete it from Plaintiff's consumer file.

27. Upon information and belief, Equifax timely notified SLS of Plaintiff's dispute, via e-OSCAR or otherwise, and provided the supporting documents, as required by 15 U.S.C. § 1681i.

28. Alternatively, Equifax failed to notify SLS and to provide the supporting documents, as required by 15 U.S.C. § 1681i.

29. In a document dated September 9, 2017, Equifax advised Plaintiff that it had researched the dispute, and provided a "revised report" that reflected its

findings. Equifax provided a copy of the tradeline as reported "post-investigation", which reproduced the errors identified by Plaintiff in her original dispute letter.

30. Specifically, the SLS tradeline appeared in the revised September 9, 2017, Equifax report as follows:

Specialized Loan Services *8742 Lucent Blvd Ste 300 Highlands Ranch CO 80129-2386 : (720) 241-7200*

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Months Revd	Activity Designator	Creditor Classification
100764*	10/31/2005	$0	$0			32		

Items As of Date Reported	Balance Amount	Amount Past Due	Date of Last Paymnt	Actual Paymnt Amount	Scheduled Paymnt Amount	Date of 1st Delinquency	Date of Last Activity	Date Maj. Del. 1st Rptd	Charge Off Amount	Deferred Pay Start Date	Balloon Pay Amount	Balloon Pay Date	Date Closed
01/14/2011	$0	$0	01/2011	$0	$0	01/2011		01/2011	$0		$0		

Status - Included In Wage Earner Plan; Type of Loan - Conventional Re Mortgage; Whose Account - Individual Account; ADDITIONAL INFORMATION - Bankruptcy Chapter 13; Real Estate Mortgage; Bankruptcy Completed;

31. The post-investigation reporting of Defendant is objectively false and misleading.

32. There is no indication in the tradeline of the "verified" report that Plaintiff has disputed the information reported and published by Equifax. The failure to note the legitimate dispute by Plaintiff of the relevant tradeline renders the reporting materially misleading.

Damages

33. The reporting of Defendant breached its duties as described herein.

34. Defendant had actual notice that the information it was reporting regarding Plaintiff and the Mortgage was false, deceptive, and misleading.

35. Defendant failed to correct its false, deceptive, and misleading reporting as described herein.

36. Defendant continued to report the false, deceptive, and misleading information regarding Plaintiff and the Mortgage.

37. Accordingly, Defendant's conduct was willful.

38. Upon information and belief, Defendant has published the false and misleading information regarding Plaintiff to third parties.

39. As a result of Defendant's willful actions and omissions, Plaintiff is eligible for statutory damages.

40. Additionally, as a result of Defendant's actions and omissions, Plaintiff has suffered actual damages, including out-of-pocket expenses in challenging Defendant's wrongful representations regarding the Mortgage.

41. Realizing that Defendant has, in effect, deprived Plaintiff of positive credit reporting on the most important account Plaintiff has, and that Defendant continues to do so as a result of its failures to comply with the statutory requirements of 15 U.S.C. § 1681 et seq., Plaintiff has experienced severe worry, frustration and

anxiety that interfere with her activities of daily living and adversely affect her interpersonal relationships.

42. As a result of the actions and omissions of Defendant, Plaintiff's actual damages also include the illegitimate suppression of her Fair Isaac Corporation ("FICO") credit score and other credit rating modeling scores.

43. Defendant's failures to correct and clear the inaccuracies in Plaintiff's Equifax report creates a material risk of financial harm to Plaintiff stemming from the decreased perception of Plaintiff's credit-worthiness.

CAUSES OF ACTION

COUNT I

VIOLATIONS OF THE FAIR CREDIT REPORTING ACT 15 U.S.C. §§ 1681e(b) and 1681i –Equifax Information Services, LLC

44. Plaintiff incorporates by reference all preceding paragraphs as though fully stated herein.

45. Pursuant to 15 U.S.C. § 1681e(b), Equifax is responsible for following reasonable procedures to assure maximum possible accuracy of information whenever it prepares consumer reports.

46. Equifax's duty under 15 U.S.C. § 1681e(b) extends to reinvestigation reports and consumer disclosures.

47. Pursuant to 15 U.S.C. § 1681i(a)(1)(A), Equifax had an affirmative duty to independently investigate the dispute submitted by Plaintiff.

48. Pursuant to 15 U.S.C. § 1681i(a)(2), Equifax was required to communicate the specifics of Plaintiff's dispute to SLS, including the forwarding of any documents provided by Plaintiff in support of that dispute.

49. A consumer reporting agency's reasonable reinvestigation must be a good faith effort to ascertain the truth; a reasonable reinvestigation must answer the substance of the consumer's dispute, and may not merely be a *pro forma* record review that simply begs the question.

50. In order to conduct a reasonable reinvestigation, and pursuant to 15 U.S.C. § 1681i(a)(4), Equifax was required to review and consider all relevant information submitted by Plaintiff.

51. Plaintiff's dispute was clear and unambiguous as to the inaccuracies of Equifax's reporting.

52. Plaintiff provided all the relevant information necessary for Equifax to reinvestigate and correct the inaccuracies in its reporting.

53. Equifax breached its duties as described herein.

54. If Equifax had conducted a reasonable reinvestigation of Plaintiff's dispute, Equifax would have reviewed and considered all of the information Plaintiff submitted in her dispute letter and would have easily detected that what was being reported was factually incorrect, inaccurate, and misleading.

55. If Equifax had conducted a reasonable reinvestigation of Plaintiff's dispute, the tradeline on Plaintiff's Equifax consumer report would have been appropriately corrected.

56. Due to Equifax's failures to follow reasonable procedures to assure maximum possible accuracy of information and failures to conduct a reasonable reinvestigation of Plaintiff's dispute, the false and misleading information in Plaintiff's credit file and on Plaintiff's Equifax report was not appropriately modified.

57. Equifax had all the information necessary to correct its reporting. Yet, Equifax failed to correct the information in the face of clear evidence that its reporting

was false and misleading. The failure indicates that Equifax's review procedures were not reasonable.

58. The fact that Equifax had all the information necessary to correct its reporting, yet failed to do so in an appropriate manner, further indicates that Equifax recklessly disregarded Plaintiff's dispute and the requirements of the FCRA, amounting to a willful violation of the statute.

59. Equifax willfully, or in the alternative negligently, violated 15 U.S.C. § 1681e(b) by failing to follow reasonable procedures to assure the maximum possible accuracy of information concerning Plaintiff in her consumer reports, in reckless disregard of the statutory requirements, Plaintiff's dispute, and the publicly recorded Bankruptcy Case filings.

60. Equifax willfully, or in the alternative negligently, violated 15 U.S.C. § 1681i in multiple ways, including without limitation, by failing to conduct a reasonable reinvestigation of Plaintiff's dispute, and by failing thereafter to appropriately modify information in her file and on her consumer report in reckless disregard of the statutory requirements, Plaintiff's dispute, and the publicly recorded Bankruptcy Case filings.

61. As a result of Equifax's violations of 15 U.S.C. §§ 1681e(b) and 1681i, Plaintiff has suffered actual damages as described herein. Plaintiff is, therefore, entitled to recover actual damages from Equifax pursuant to 15 U.S.C. §§ 1681n and 1681o.

62. Equifax's actions and omissions were willful, rendering Equifax liable to Plaintiff for punitive damages and/or statutory damages pursuant to 15 U.S.C. § 1681n.

63. Plaintiff is entitled to recover costs and attorneys' fees from Equifax pursuant to 15 U.S.C. §§ 1681n and 1681o.

TRIAL BY JURY

Plaintiff is entitled to and hereby requests a trial by jury.

WHEREFORE, Plaintiff prays that judgment be entered in her favor and against Defendant for:

a.) Plaintiff's actual damages;

b.) Punitive and/or statutory damages, pursuant to 15 U.S.C. § 1681n;

c.) Reasonable attorney's fees and costs, pursuant to 15 U.S.C. §§ 1681n and/or 1681o; and

d.) Such other and further relief as may be just and proper.

Respectfully submitted this 6th day of October, 2017.

BERRY & ASSOCIATES

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